

REMARKS

By the present amendment, claims 38 and 48 are amended to recite the invention with greater clarity, and a new dependent claim 57 is added to specify a further feature of novelty of the present invention. No new matter has been added.

It is believed to be apparent that the present amendment to claim 48 is effective to overcome the indefiniteness rejection applied against that claim at page 2 of the Official Action.

Claims 38-43, 45-51 and 56 were rejected in the Official Action as allegedly being obvious over Perrottet (U.S. 559,788) in view of either Llorente Hompanera (U.S. Publication Application No. 2001/0043977) or Sollich (GB 697,071). That rejection is respectfully traversed for the following reasons.

Perrottet discloses a rigid metal mould, comprising a hollow piece A having a vertical lateral wall, and a plate-shape base B. The lateral wall comprises two parts 10, 11 permanently hinged together by a vertical axis hinge: a first part 10 which forms with the plate-shape base B a single element, and a second part 11 which is movable relative to the first part 10 (and the plate-shape base B) between an open position and a closed position. The movable part 11 comprises a lower portion having a lower metal lip 18 delimiting

downwardly a groove 17 which receives the peripheral rim of the plate-shape base B when the movable part 11 is in its closed position.

Thus, in Perrottet, the plate-shape base B is not removable from the first part 10 of the lateral wall, nor from the second part 11. The plate-shape base B is only movable relative to the second part 11 (cf. figures 2 and 3, and page 1, lines 13 to 15, 35 to 39, 63 to 65, and 80 to 85).

Llorente Hompanera merely discloses the use of silicone in a mold for culinary preparation, which thus utilizes the flexibility of silicone as an alternative mechanism for facilitating the removal of the baked good from the mold.

Sollich discloses a flexible mold 1 comprising a rigid plate-shaped base stiffener 4 vulcanised at the outer surface of the bottom wall of the mould.

Considering the applied references collectively, there would have been no apparent reason (absent foreknowledge of the present invention), to replace the non removable plate-shape base B of Perrottet with a removable one.

Furthermore, in Perrottet, because the groove is not upwardly delimited by an upper lip (i.e. a radial element extending from the lateral wall), the plate-shaped base B cannot be pinned by such an upper lip against the lower lip 18. The relative movement of the groove of movable

part 11 in relation to the peripheral rim of the plate-shaped base B is a displacement according to a direction in the plane defined by the plate-shaped base B. Thus, the presence of an upper lip able to pin the plate-shaped base B against the lower lip 18 would block the insertion of the rim in the groove that is desired by Perrottet.

Thus, not only would there have been no apparent reason to combine the applied references in the manner proposed in the Official Action absent foreknowledge of the present invention, but also the primary reference teaches away from the proposed combination. As was held by the Federal Circuit in the case of *In re Haruna*, 249 F.3d 1327, 1335 (Fed. Cir. 2001), "[a] reference may be said to teach away when a person of ordinary skill, upon reading the reference, ...would be led in a direction divergent from the path that was taken by the applicant."

In view of the present amendment and the foregoing remarks, it is believed that the present application has been placed in condition for allowance with claims 38-43, 45-53, 56 and 57, as amended. Allowance and passage to issue on that basis are accordingly respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,
YOUNG & THOMPSON

/Andrew J. Patch/
Andrew J. Patch, Reg. No. 32,925
Customer No. 00466
209 Madison Street, Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573

AJP/jr